

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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In the Matter of)	
)	FILE NO. 962 3150
UNO RESTAURANT CORPORATION,)	
PIZZERIA UNO CORPORATION, and)	
UNO RESTAURANTS, INC.,)	
corporations.)	AGREEMENT CONTAINING
)	CONSENT ORDER
)	
)	

The Federal Trade Commission has conducted an investigation of certain acts and practices of Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc., corporations ("proposed respondents"). Proposed respondents, having been represented by counsel, are willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc., by their duly authorized officers, and counsel for the Federal Trade Commission that:

- 1.a. Proposed respondent Uno Restaurant Corporation is a Delaware corporation with its principal office or place of business at 100 Charles Park Road, West Roxbury, Massachusetts 02132 .
- 1.b. Proposed respondent Pizzeria Uno Corporation is a Delaware corporation with its principal office or place of business at 100 Charles Park Road, West Roxbury, Massachusetts 02132 .
- 1.c. Proposed respondent Uno Restaurants, Inc. is a Massachusetts corporation with its principal office or place of business at 100 Charles Park Road, West Roxbury, Massachusetts 02132 .
2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondents waive:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of sixty (60) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent by any means specified in Section 4.4 of the Commission's Rules shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the draft complaint and consent order. They understand that they may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, "respondents" shall mean Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc., corporations, their successors and assigns and their officers, agents, representatives and employees.
2. "In or affecting commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondents, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of pizzas, or any other food product containing a baked crust, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, through numerical or descriptive terms or any other means, the existence or amount of total fat or any other nutrient or substance in such product. If any representation covered by this Part either expressly or by implication conveys any nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, compliance with this Part shall be governed by the qualifying amount for such defined claim as set forth in that regulation.

II.

Nothing in this order shall prohibit respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

III.

IT IS FURTHER ORDERED that respondents Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. and their successors and assigns shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

IV.

IT IS FURTHER ORDERED that respondents Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. and their successors and assigns shall deliver a copy of this order to all current and future principals, officers, directors, managers, and franchisees, and to all current and future employees, agents, and representatives having responsibility for the preparation of advertising or promotional materials. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that respondents Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. and their successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a

successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondents learns less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VI.

IT IS FURTHER ORDERED that respondents Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. and their successors and assigns shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

VII.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been

filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this 23rd day of October, 1996

thin crust pizzas known as "Thinzettas," which are "foods" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

6. Respondents have disseminated or have caused to be disseminated advertisements for thin crust pizzas, including but not necessarily limited to the attached Exhibits A1, A2, and B. These advertisements contain the following statements:

- A. Customer: "Me, I Like to watch what I eat."
- Chef: "Then keep watching . . ."
- Announcer: "Introducing great tasting low fat thin crust pizzas."

. . . .

(Exhibit A1, television commercial transcript, and Exhibit A2, television commercial videotape).

- B. "Uno's menu is full of 23 new tempting items. Try our 3 new Deep Dish or 8 new Lowfat Thin Crust Pizzas."

. . . .

(Exhibit B, print advertisement).

7. Through the means described in Paragraph 6, respondents have represented, expressly or by implication, that their Thinzettas thin crust pizzas are low in fat .

8. In truth and in fact, in most cases respondents' Thinzettas thin crust pizzas are not low in fat. Six out of nine types of Thinzettas thin crust pizzas contained from 14 to 36 grams of fat per serving at the time of dissemination of the advertisements referred to in Paragraph 6. Therefore, the representation set forth in Paragraph 7 was, and is, false or misleading.

9. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices, and the making of false advertisements, in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this day
of , 199 , has issued this complaint against
respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL:

[Exhibits A1 and B are attached to paper copies of the complaint, but not available in electronic form. Exhibit A2 is a television commercial videotape.]

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. The proposed respondents operate the nationwide Pizzeria Uno restaurant chain, where they sell, among other items, a line of thin crust pizzas known as "Thinzettas."

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint charges that the proposed respondents falsely claimed that their Thinzettas line of thin crust pizzas is low in fat. The proposed consent order contains provisions designed to remedy the violations charged and to prevent proposed respondents from engaging in similar acts in the future.

Part I of the proposed order, in connection with pizzas or any other food product containing a baked crust, prohibits the proposed respondents from misrepresenting the existence or amount of total fat or any other nutrient or substance in such product. Part I further provides that if any representation covered by this Part conveys a nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, compliance with this Part shall be governed by the qualifying amount set forth in that regulation. Part II of the proposed order specifies that nothing in the order prohibits the proposed respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

Part III of the proposed order contains record keeping requirements for materials that substantiate, qualify, or contradict covered claims and requires the proposed respondents to keep and maintain all advertisements and promotional materials containing any representation covered by the proposed order. Part IV requires distribution of a copy of the consent decree to current and future principals, officers, directors, managers, and franchisees, and to certain current and future employees, agents, and representatives.

Part V provides for Commission notification upon any change in the corporate respondents affecting compliance obligations arising under the order. Part VI requires the filing of compliance report(s). Finally, Part VII provides for the termination of the order after twenty years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.